

***United States Court of Appeals  
for the Second Circuit***



**ADDENDUM**

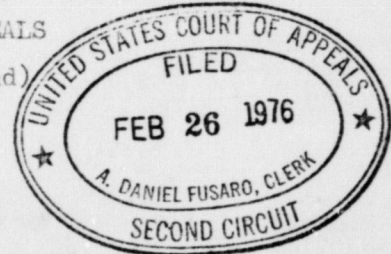


75-1439

FEB 26 1976

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P/S

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT (2nd)  
NEW YORK, NEW YORK



JAMES E. LOFLAND

DOCKET 75 - 1439

APPELLANT

CALENDAR 5565

vs

ADDENDUM

UNITED STATES OF AMERICA

TO APPELLANT'S BRIEF

APPELLEE/RESPONDENT

James E. Lofland  
P.O. Box 1000 00219-158  
Leavenworth, Kansas 66048

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT (2nd)  
NEW YORK, NEW YORK

James E. Lofland

APPELLANT

vs

United States of America

APPELLEE/RESPONDANT

Docket 75-1439

Calander 5565

"Addendum"

To Appellant's Brief

Opening Statements.

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TO: Clerk of Court, United States Circuit Court of Appeals,  
Second (2nd) Circuit, New York, New York.

PLEASE TAKE NOTICE:

That on March 1, 1976, James E. Lofland, (herein after called Appellant), in the United States Court of Appeals for the Second (2nd) Circuit; Shall move this court as follows:

TO WIT:

1. Addendum to be filed in conjunction with appellant's attorney's opening brief. (Attorney of record Bernard J. Coven, 747 Third Ave., New York, New York 10017)

PRESENTMENT:

Appellant is in custody, at Levenworth; and is on direct appeal in forma, paupris. Calander 5565, Docket 75-1439.

ARGUMENT:

1. Throughout the Governments entire case, it has spoke of false affidavits (eg) opening brief, page 5, Government introduced a xerox copy, which under WIGGINS Evid, and CASE Law; Government cannot exhibit a copy of same, but must have



Con't.

the originals as exhibit .

A prejudicial error on the trial judges collusion on the Governments prosecution of this case.

2. Myrtle Rupe testimony absolves appellant of any intents to defraud, obstruct the vehicle of justice.

(See appellants Exhibit "Rupe" Affidavit clearing appellant of any attempts of fraud by wire, fraud by telephone, inducing travel in interstate , or to defraud Rupe in any way. As marked.)

Ex: No. 1A - U.S.C.C.A.(2nd Circuit)

3. This addendum, and Exhibits are valid in their veracity to the Appellants entire case.

Point Law, DuPont vs. U.S.A.

4. The Exhibits from Myrtle Rupe as marked "1A", is axiomatic important; the Exhibit "1B", from the phone Company is valid to this overall instant matter before the Bar;

The Government cannot disjoiner facts, try the Appellant on manufactured evidence. See:Argument 1; the Government must produce the original into evidence (Rupe), not a copy.

Page 8 of Appellants opening Brief (and as also found in reporters transcripts), clearly shows the prefabrication of the Governments case.

Appellant wishes at this time to also cite that he does claim Const/Civil Rights violations, as well as violations of Privacy Act; on the trial Judges Ruleings on evidence, the matter of illegal recording device on Mrs. Esther Armstrong , Ft.Worth, Texas. (Said Judges Ruleings on such evidence goes contrary to

Con't.

all precedent cases of : 2nd, 5th, 7th, 9th, 10th, U.S.C.C.A. as well as U.S.S. Courts Ruleings.)

Appellant need not Quote Const/Civil Law or Privacy Act, to this Honorable Court, as this Court does indeed know said Const/Civil, and Privacy Act Law.

CAVEAT, POINT OF LAW:

On the matter of illegal Tap/Recording device, as a Const/Civil Rights violations, as well as direct violation of The Privacy Act; this is mentioned to this Court, at this time, as said trial Judge allowed tape recordings to be played in Open Court and Jury; and said crux of the matter No Authorization, for any installation of any recorder unit was ever authorized by the Courts (Federal or State, or the Phone Company, and Appellant did not give his consent to have his conversations taped or to such a recording device being used in any way.

On the matter of the imposition of consecutive sentence; this is mentioned to this Court, at this time, as said trial Judge showed prejudice by the imposing of harsher cumulative punishment.

SEE: CLEMENTS v. U.S. 471 F.2d 1253 (C.A. 9). The face of the act violated does not authorize imposition of consecutive sentence, nor does the legislative intent reflect anything that could be construed to authorize multiple punishment. In the absence of clear congressional intent, a statute should be construed against harsher cumulative punishment.) WILSONOVICH v. U.S. 365 U.S.551 (1961):HELFLIN v. U.S. 358 U.S. 415 (1959): LADNER v. U.S., 356U.S.169 (1958);




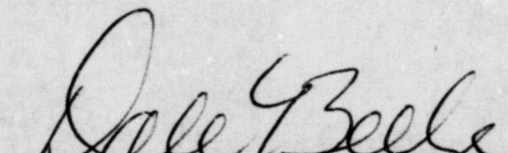
Con't.

CONCLUSION:

Appellant is a layman not versed in schools of law, and has filed this laymans brief as an Addendum to Appellants opening statement, and brief, and as such is submitted thru his attorney of record to be sent to the United States Court of Appeals, Second Circuit, New York, New York, 10007. To become an official part of the record.

Executed: 66<sup>23</sup> day, of February, 1976

  
\_\_\_\_\_  
(Appellant, Petitioner)

  
\_\_\_\_\_  
Case Worker

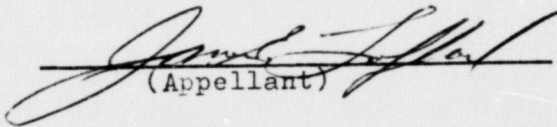
Seal of Office

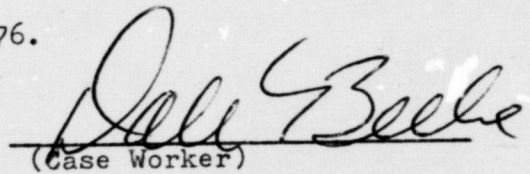
DALE Y. BEALE, Parole Officer  
PROBATION OFFICER  
WICHITA, KANSAS  
AUTHORIZED BY ACT OF  
JULY 7, 1965 TO ADMINISTER  
OATHS (16USC 482A)

MAIL SERVICE:

That this titled Brief and Exhibits was deposited for mailing in the institutions mail system to be mailed to the United States Court of Appeals, Second Circuit , United States Courthouse, Foley Square, New York, New York 10007, together with copy to be forwarded to U. S. Attorney General Office, Foley Square, New York, New York, 10007.

Executed: 23 day, of February 1976.

  
(Appellant)

  
(Case Worker)

(Seal of Office)

DAVE BERRY, *Placid* ~~Officer~~  
U. S. CONSTABLE  
LEAVENWORTH, KANSAS 66048  
APPOINTED BY ACT OF  
JULY 9, 1959 TO ADMINISTER  
OATHS (LSUC 4024)



EX: 116 - U.S.C.A. 2<sup>nd</sup> CIRCUIT  
APPENDIX  
# 75-1439  
5565



**Southwestern Bell**

308 South Akard Street  
Dallas, Texas 75202  
Phone (214) 745-2390

**Michael R. Greene**  
Attorney

February 12, 1976

Mr. James E. Lofland, 00219-159  
P. O. Box 1000  
Leavenworth, Kansas 66048

Dear Mr. Lofland:

This letter is written in response to your letter dated February 6, 1976. Initially, let me advise that Southwestern Bell Telephone Company has not and does not authorize a "tap" or "recording device" on any telephone. The ordering of the use of a "tap" or the placement or use of a "recording device" on any telephone instrument can only be authorized by a court order from a court of competent jurisdiction.

In response to your specific question, this is to advise that the records of Southwestern Bell Telephone Company reveal that no "tap" or "recording device" was ever placed or used in reference to telephone service located at 3856 Winslow Drive in Fort Worth, Texas, during the years 1973 or 1974. Further, Southwestern Bell's records do not show that a "tap" or "recording device" was ever used at the above mentioned address.

I trust that this answers your inquiry and remain

Sincerely yours,

Michael R. Greene

MRG:gs



AFFIDAVIT

February 14, 1976

State of Oklahoma, County of Oklahoma:

I Myrtle Rupe, of lawful age, being first duly sworn upon oath states:

That I reside at 2725 Manchester Drive, Oklahoma City, Oklahoma, and make this affidavit under oath for the purpose of clearing up any misunderstandings and for the purpose of verifying my involvement with James E. Lofland, Esther Armstrong, and others relative to the Coronado Country Club in Liberal, Kansas, and the option James Lofland and myself obtained on the property located on Keystone Lake, Oklahoma, Other wise known as Dr. Stokes Property.

I do not feel to my knowledge then or today that I was being defrauded by James Lofland.

I was asked to come to New York on two different occasions by assistant U.S. Attorney Rakoff, for the purpose of appearing before the Grand Jury. On both occasions I was under the impression by Mr. Rakoff, that I was not appearing before the Grand Jury regarding James Lofland. Had I known then that I was appearing regarding James Lofland I would not have appeared, for as I said before I do not feel I was defrauded by James Lofland.

When I first invested in the Club in Liberal, Kansas in August of 1973 the Club was partially built. I considered it a good investment in my judgement or else I would not have become involved. At that time Mr. Lofland informed me of all the financial involvements of a lady from Ft. Worth, Texas, Mrs. Esther Armstrong. I later met her in April 1975.

The Club was complete and opened in December of 1973. The Club seated approximately three-hundred people and was doing well until and unfortunately for all of us who were involved a tornado struck the Club in late August of 1974, and the Club had to be closed for repairs, which meant a loan was necessary in order to complete the repairs and the Club golf course.

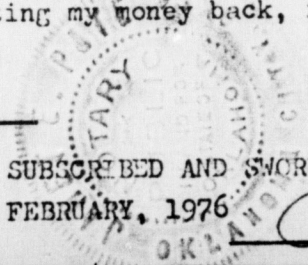
Obtaining this new loan was of great importance to all parties concerned, both to Mr. Lofland and to myself included. We previously travelled to New York, Chicago, and many places in the hopes of obtaining the necessary financing.

My trip to New York on February 18, 1975 was one of many trips taken in the normal course of business for that purpose. The money I wired to New York for Mr. James Lofland was to help pay his expenses in pursuant of trying to obtain financing as we previously agreed, for I knew he did not have any money to travel on or for expenses. I traveled to New York on the above date to see S. Michael Gardner of my own free will and volition, and I feel I was not to my knowledge then or today traveling for the purpose of being defrauded. This was merely one of several unsuccessful attempts to obtain the necessary financing for the Club in Liberal, Kansas.

The affidavit that the U.S. Attorneys Office used during Mr. Loflands trial was a true affidavit as to it's complete contents, and I was not persuaded or influenced in any way or by the possibility of getting my money back, for I wrote it because it was the truth.

*Myrtle Rupe*  
Myrtle Rupe

SUBSCRIBED AND SWORN TO BEFORE ME THIS 14 DAY OF February  
FEBRUARY, 1976



*Opriet d. Pate - Commission Exp.*  
022417, 1978

ADDENDUM  
#75-439  
5565  
Ex. 1A - U.S.C.A. - 2nd Circuit

